UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROGER MOULTON, Plaintiff, v. CREDIT PROTECTION ASSOCIATION, L.P., Defendant.	Civil Action No. 1:15-cv-13077

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Defendant, CREDIT PROTECTION ASSOCIATION, L.P. ("Defendant"), hereby responds to Plaintiff's First Amended Complaint as follows:

INTRODUCTION

1. Defendant admits that Plaintiff purports to bring claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq*. ("TCPA"), the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq., the Massachusetts Consumer Protection Act, M.G.L. ch. 93A, *et seq.*, but denies that Plaintiff has any such claims herein and further denies that it violated any section of sections of the TCPA, FDCPA, MCPA, or any other laws. Defendant denies all remaining allegations contained in this paragraph.

2. Defendant denies the allegations contained in this paragraph.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph.

4. Paragraph 4 states a conclusion of law to which no response is required and is otherwise denied.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph.

JURISDICTION AND VENUE

6. Paragraph 6 states a conclusion of law to which no response is required and is otherwise denied.

7. Defendant does not contest personal jurisdiction.

8. Defendant does not contest venue. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the whether Plaintiff resides in this District. Defendant otherwise denies the remaining allegations contained in this paragraph.

PARTIES

9. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the whether Plaintiff is a citizen and resident of Massachusetts. The remaining allegation set forth in paragraph 9 of the Amended Complaint states a conclusion of law to which no response is required and is otherwise denied.

10. Defendant admits that it has a business location in Texas and that conducts business in Massachusetts as well as other states within the United States. Defendant denies the remaining allegations contained in this paragraph.

11. Paragraph 11 states a conclusion of law to which no response is required and is otherwise denied.

FACTS

12. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

15. Defendant denies the allegations contained in this paragraph.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

19. Defendant denies the allegations contained in this paragraph.

20. Defendant denies the allegations contained in this paragraph.

21. Defendant denies the allegations contained in this paragraph.

FIRST CAUSE OF ACTION
Violations of 47 U.S.C. § 227(b)(1)(A)(iii)

22. Defendant incorporates its answers to the foregoing allegations as if fully set forth herein.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

24. Defendant denies the allegations contained in this paragraph.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph.

28. Paragraph 28 states a conclusion of law to which no response is required and is otherwise denied.

29. Defendant denies the allegations contained in this paragraph.

30. Defendant denies the allegations contained in this paragraph.

SECOND CAUSE OF ACTION
Invasion of Privacy/Intrusion Upon Seclusion

31. Defendant incorporates its answers to the foregoing allegations as if fully set forth herein.

32. Defendant denies the allegations contained in this paragraph.

33. Defendant denies the allegations contained in this paragraph.

34. Defendant denies the allegations contained in this paragraph.

35. Defendant denies the allegations contained in this paragraph.

36. Defendant denies the allegations contained in this paragraph.

THIRD CAUSE OF ACTION
Violation of the FDCPA 15 U.S.C. § 1692, et seq.

37. Defendant incorporates its answers to the foregoing allegations as if fully set forth herein.

38. Defendant denies the allegations contained in this paragraph.

39. Defendant denies the allegations contained in this paragraph.

40. Defendant denies the allegations contained in this paragraph.

FOURTH CAUSE OF ACTION
Violations of the Massachusetts Consumer Protection Act, M.G.L. ch. 93A, et seq.

41. Defendant incorporates its answers to the foregoing allegations as if fully set forth herein.

42. Paragraph 42 states a conclusion of law to which no response is required and is otherwise denied.

43. Paragraph 43 states a conclusion of law to which no response is required and is otherwise denied.

44. Defendant denies the allegations contained in this paragraph.

45. Defendant denies the allegations contained in this paragraph.

46. Defendant admits that on or about August 3, 2015, Plaintiff, through his counsel, sent a demand correspondence to counsel for Defendant. Defendant denies the remaining allegations contained in this paragraph.

47. Defendant denies the allegations contained in this paragraph.

48. Defendant denies the allegations contained in this paragraph.

AFFIRMATIVE DEFENSES

Defendant alleges the following defenses without assuming the burden of proof where such burden is otherwise on the Plaintiff.

FIRST DEFENSE

Plaintiff lacks Article III standing with regard to his claims because he cannot demonstrate that he incurred any actual injury.

SECOND DEFENSE

Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

Any violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, which Defendant denies occurred, was not intentional and was the result of a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

FOURTH DEFENSE

Plaintiff consented to being telephoned, receiving facsimiles, being contacted and/or receiving communications at the numbers provided and/or otherwise waived the right to claim lack of consent. This affirmative defense is asserted in the alternative to the argument that lack of consent is an element of plaintiff's TCPA claims.

FIFTH DEFENSE

To the extent that any violation of the TCPA occurred, which Defendant denies, it resulted from good faith reliance upon incorrect information offered by other persons or entities other than an agent, servant or employee of Defendant.

SIXTH DEFENSE

Plaintiff has failed to mitigate his damages and his claims herein should be barred or any recovery reduced in proportion to Plaintiff's said failure to mitigate his damages.

SEVENTH DEFENSE

Plaintiff's claims are barred by the doctrine of waiver, laches, ratification, unclean hands and estoppel.

EIGHTH DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations.

NINTH DEFENSE

Plaintiff's Chapter 93A claim against Defendant is barred because Plaintiff has not suffer an injury which would otherwise entitle him to recovery.

TENTH DEFENSE

Plaintiff's claim for invasion of privacy fails as a matter of law insofar as Massachusetts does not recognize a common law claim for invasion of privacy.

ELEVENTH DEFENSE

If there was an invasion of privacy, which Defendant denies, it was neither substantial nor serious in nature.

TWELFTH DEFENSE

Defendant's telephone system is not an automatic telephone dialing system under 47 U.S.C. § 227(a) because the telephone system does not use a random or sequential number generator to store or produce telephone numbers. Moreover, Defendant's system entails human intervention.

DEMAND FOR A JURY TRIAL

Defendant demands a jury trial.

The Defendant reserves its right to supplement these affirmative defenses as discovery proceeds. The Defendant further reserves its right to seek costs and attorneys' fees pursuant to 15 U.S.C § 1692k(a)(3) in the event that the Court deems Plaintiff's action was broughtin bad faith and for the purpose of harassing Defendant.

WHEREFORE, Defendant, CREDIT PROTECTION ASSOCIATION, LP, respectfully requests that this Court dismiss the Complaint in its entirety and grant such other and further relief in their favor as the Court deems just and proper.

Respectfully submitted,

CREDIT PROTECTION ASSOCIATION, L.P.
By Its Attorneys,

/s/ Andrew M. Schneiderman

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Dated: May 18, 2016.

CERTIFICATE OF SERVICE

I, Andrew M. Schneiderman, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 18, 2016.

/s/ Andrew M. Schneiderman
Andrew M. Schneiderman